

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JAMES KENNETH MIZE,

Plaintiff(s),

v.

CLARK COUNTY JUSTICE COURT,

Defendant(s).

Case No. 2:14-CV-1114 JCM (GWF)

ORDER

Presently before the court are Magistrate Judge Foley's report and recommendation. (Doc. # 6). Plaintiff James Kenneth Mize has not filed an objection and the deadline to do so has passed.

This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a de novo determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1).

Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the view that district courts are not required to review "any issue that is not the subject of an objection."). Thus, if

1 there is no objection to a magistrate judge's recommendation, then this court may accept the
2 recommendation without review. *See, e.g., Johnstone*, 263 F. Supp. 2d at 1226 (accepting,
3 without review, a magistrate judge's recommendation to which no objection was filed).

4 Nevertheless, this court finds it appropriate to engage in a de novo review to determine
5 whether to adopt the recommendation of the magistrate judge. This matter commenced on July
6 8, 2014, with the filing of plaintiff's complaint and motion/application to proceed *in forma*
7 *pauperis*. (Doc. # 1). The court denied plaintiff's motion to proceed *in forma pauperis* due to
8 allegations indicating plaintiff's ability to pay the fees associated with the cost of bringing his
9 action. (*See* Doc. # 2). Plaintiff filed an amended application to proceed *in forma pauperis*,
10 which the court similarly denied for failing to include a signed financial certificate by an
11 authorized officer under 28 U.S.C. § 1915(a)(2) and Local Rule 1-2. The court ordered plaintiff
12 to file an amended application to proceed *in forma pauperis* or to pay the filing fee by August
13 25, 2014, and cautioned plaintiff that failure to do so might result in the court dismissing his
14 action.

15 Fed. R. Civ. P. 41(b) allows the court discretion to dismiss an action if the
16 plaintiff fails to prosecute or to comply with the rules or a court order. The court's July 25, 2014
17 order (doc. # 5) granted plaintiff until August 25, 2014 to file an amended application to proceed
18 *in forma pauperis* or to pay the filing fee. Plaintiff has done neither. The complaint has,
19 therefore, neither been screened nor filed with the court

20 Upon reviewing the recommendation and underlying briefs, and in light of plaintiff's
21 failure to object, this court finds good cause appears to ADOPT the magistrate's findings in full.

22 Accordingly,

23 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Magistrate Judge
24 Foley's report and recommendation (doc. # 6) be ADOPTED.

25 IT IS FURTHER ORDERED that the clerk is instructed to close the case.

26 DATED October 16, 2014.

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UNITED STATES DISTRICT JUDGE